

APPEAL NO. 021997
FILED SEPTEMBER 17, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 3, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____; that she did not have disability; and that the claimant's claimed injury was not caused by her willful intention to injure herself, thus, the respondent (self-insured) would not be relieved of liability if the claimant had sustained a compensable injury. The claimant appealed, arguing that the hearing officer's injury and disability determinations are against the great weight and preponderance of the evidence. In its response, the self-insured urges affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that she sustained a compensable injury. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). That issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

In this instance, there was conflicting evidence on the issue of whether the claimant sustained a new cervical injury from lifting her computer at work on _____. The hearing officer resolved that conflict by giving more weight to the evidence tending to demonstrate that the claimant did not sustain a new injury from that incident. The hearing officer was acting within her province as the fact finder in so doing. Our review of the record does not demonstrate that the hearing officer's determination that the claimant did not sustain a compensable injury on _____, is so against the great weight of the evidence as to be clearly wrong or manifestly unjust; therefore, no sound basis exists for us to reverse the hearing officer's injury determination on appeal. Pool; Cain.

The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because the claimant did not sustain a compensable injury, the hearing officer properly concluded that the claimant did not have disability.

We affirm the decision and order of the hearing officer.

The true corporate name of the self-insured is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge